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Superior/State Court, Spalding County

IN THE STATE COURT OF SPALDING COUNTY
STATE OF GEORGIA

SHELBY YOUNG AND TYLER YOUNG Plaintiffs, vs. WAL-MART STORES EAST, LP d/b/a WAL-MART and THOMAS SCOTT OWEN, Defendant.	)))))))	CASE NO.:21SV-301

COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, Shelby Young, by and through her counsel, and files this, her Complaint against Walmart Stores East, LP, (hereinafter "Walmart") and shows the court the following:

PARTIES AND JURISDICTION

1. Plaintiff, a resident and citizen of Georgia, brings this action for the past, present, and future medical bills, past, present, and future pain and suffering, permanent disability, and loss of consortium for damages the Plaintiff sustained as a result of the above-named Defendants' negligence. The subject incident occurred on or about May 23, 2020, at Walmart store 932 located at 1569 North Expressway, Griffin, GA 30223.

2. Defendant Walmart is a foreign for-profit corporation that is registered to do business in the state of Georgia. The Defendant has appointed The Corporation Company at 106 Colony Park Drive Ste. 800-B, Cumming, GA, 30040-2794, as its registered agent for service of process and the Defendant can be served at that address.

3. The Defendant Walmart is subject to the jurisdiction and venue of this Honorable Court.

4. Defendant Thomas Scott Owen is a citizen of the State of Georgia and the manager of the Griffin Walmart located at 1569 North Expressway, Griffin, GA 30223.

5. Defendant Thomas Scott Owen may be served at 1569 North Expressway, Griffin, GA 30223.

FACTS COMMON TO ALL COUNTS

6. Plaintiff re-alleges the previous paragraphs as if fully set forth herein.

7. Defendant WALMART owns the parking lot located at 1569 North Expressway, Griffin, GA 30223.

8. On or about May 23, 2020, Plaintiff, Shelby Young was a customer and invitee at the Walmart store located on Defendant's property at 1569 North Expressway, Griffin, GA 30223.

9. While Plaintiffs were walking towards the entrance of the Griffin Walmart store along the sidewalk owned, designed, and maintained by Defendant Walmart, a vehicle being operated by Barbara Stansell approached from behind driving parallel to the sidewalk.

10. Multi-level display racks of various Memorial Day flower arrangements and potted plants covered portions of the sidewalk between the Plaintiffs and Ms. Stansell's approaching vehicle.

11. As Ms. Stansell passed the garden center approaching the Walmart entrance, she drifted onto the sidewalk, striking and running over Plaintiff Shelby Young's left leg causing severe injuries.

12. Defendant's Griffin store did not have an elevated curb or sidewalk.

13. The sidewalk at Defendants' Griffin Walmart store is level with the parking lot and vehicle thoroughfare adjacent to it.

14. Defendant's Griffin store did not have bollards or any other barrier to prevent this foreseeable incursion onto the sidewalk.

15. On May 23, 2020, Defendants' Griffin store had merchandise placed on the sidewalk between the garden center fence and the vehicle thoroughfare, which forced invitees to walk in or close to the roadway and concealing them from approaching traffic.

16. Defendants did not warn Plaintiffs of the dangers they faced by walking along and on the sidewalk at the front of their store.

17. At all relevant times, the Plaintiff exercised ordinary care for her own safety.

18. As a result of the incident on May 23, 2020, Shelby Young suffered serious physical, mental, and emotional injuries, including severe pain and suffering as a result of this incident.

OWNERSHIP AND OPERATION OF THE WALMART STORE

19. Plaintiff realleges and incorporates the foregoing paragraphs as if they were fully restated verbatim herein.

20. On and around May 23, 2020, Defendant Walmart owned and operated the Walmart store at 1569 North Expressway, Griffin, GA 30223.

21. Plaintiffs Shelby and Tyler Young were invitees of Defendants.

22. Defendant Walmart had a duty to inspect the sidewalk and parking lot to identify hazards, including reasonable and safe protections against foreseeable dangers like vehicle incursions on the pedestrian sidewalk.

23. Before Shelby Young was injured, Defendants knew or in the exercise of reasonable care should have known that a vehicle incursion on the sidewalk was a reasonably foreseeable hazard.

24. Before Shelby Young was injured, Defendants knew or should have known that the Griffin Walmart store had no protection from vehicle incursions on the sidewalk, which created a hazard of a reasonably foreseeable danger.

25. Before Shelby Young was injured, Defendants knew that placement of merchandise on the sidewalk created a foreseeable danger to its invitees.

26. Defendants negligently covered the pedestrian walkway with merchandise, creating further risk of injury to invitees.

27. Prior to this incident, Defendants failed to correct the reasonably foreseeable hazards at the Griffin Walmart.

28. Defendant negligently designed, constructed, and maintained the sidewalk and parking lot on its Griffin property so that it created dangerous conditions which led to Plaintiff's injuries.

29. As a direct and proximate result of Defendants' negligent acts and omissions, Shelby Young suffered serious physical, mental, and emotional injuries, including severe pain and suffering as well as significant limitations of her physical abilities.

COUNT I: NEGLIGENCE OF DEFENDANT WALMART

30. Plaintiff re-alleges and incorporates the previous paragraphs as if fully set forth herein.

31. At all relevant times, the Defendant Walmart owned, operated, maintained, and/or managed the Walmart store, sidewalk, and parking lot in question and owed a legal duty under O.C.G.A. § 51-3-1 of ordinary care to invitees to inspect and keep the premises and approaches in a safe condition.

32. Defendant Walmart's duty of ordinary care pursuant to O.C.G.A. § 51-3-1 is a non-delegable duty to inspect and keep the premises and approaches in a safe condition.

33. Defendant Walmart owned, operated, and maintained the sidewalk and parking lot in a manner that created a foreseeable hazard and in violation of its own policies and the Griffin Municipal Code.

34. At all relevant times, Defendant Owen was the manager of the Griffin Walmart store located at 1569 North Expressway, Griffin, GA 30223.

35. Defendant Owen, as the manager of the Griffin Walmart, had a duty to inspect the property and/or to make sure that employees inspected the Griffin Walmart to keep the premises and approaches safe.

36. At all relevant times, Defendant Walmart, as owner of the subject property, and Defendant Owen as the manager of the property had actual or constructive knowledge of the hazardous condition and could have prevented Mrs. Young's injuries.

37. Defendant Walmart knows of the foreseeable hazard of storefront crashes and vehicle incursions onto the curbless sidewalks of its stores across the country, as demonstrated by the dearth of cases relating to similar incidents. See Wal-Mart Stores, Inc. v. Chavez, No. 547 (Md. Ct. Spec. App. Aug. 17, 2018), Poloski v. Wal-Mart Stores, Inc., 68 S.W.3d 445 (Mo. Ct. App. 2002), Davis v. Wal-Mart Stores, Inc., 64 F. Supp. 2d 1176 (M.D. Ala. 1999), Christian v. Wal-Mart Stores East, L.P., 2011 Ohio 3512 (Ohio Ct. App. 2011), and Chapman v. Wal-Mart Stores, Inc., 351 Ark. 1 (Ark. 2002).

38. In a similar case involving a pedestrian struck on the curbless, bollardless sidewalk of a Costco, the Supreme Court of Idaho stated "one wonders how many cases must be published declaring that runaway vehicles are unforeseeable as a matter of law before the resulting paradox created by such a body of law become logically untenable. As the Plaintiffs' expert's reports show, there is an entire portion of industry and literature dedicated to designing parking lots in such a way to adequately account for errant vehicles." Oswald v. Costco Wholesale Corp., 473 P.3d 809, 827 (Idaho 2020).

39. A raised curb, as required by the City of Griffin municipal code, bollard, and numerous other types of protective barriers would have prevented Plaintiff's injury.

40. A fence, speedbump, rumble strip, wheel stop or other devise would have alerted the driver of her deviation from the thoroughfare onto the pedestrian sidewalk before she struck Plaintiff Shelby Young, however, there was no such device in place.

41. At all relevant times, Defendants had superior knowledge of the hazardous condition created by the negligently designed and maintained sidewalk.

42. Defendant Walmart negligently designed, constructed, and maintained the sidewalk and parking lot areas of its Griffin store.

43. Defendant created a hazard to pedestrians and invitees by placing the sidewalk in such close proximity to the vehicle thoroughfare with no meaningful barrier, obstacle, or physical differentiation.

44. Defendants failed to warn Plaintiff Shelby Young and other invitees of the hazardous condition created by the negligently designed and maintained sidewalk.

45. Defendants created a hazardous condition by placing merchandise on the sidewalk of its Griffin Walmart store.

46. Defendants' failure to keep the premises and approaches safe constitutes negligence.

47. Defendants' failure to warn invitees of the hazardous condition created by the sidewalk constitutes negligence.

48. The Defendants are liable for the actions and negligence of their employees and contractors under the doctrine of respondeat superior.

49. Defendant Walmart was and is responsible for the planning, construction, and ultimate design of the parking lot at its Griffin Walmart store.

DAMAGES

50. Plaintiff re-alleges the previous paragraphs as if fully set forth herein.

51. As a direct and proximate result of the Defendant's negligent, careless, and reckless acts and omissions, Mrs. Young sustained severe and permanent injuries, including but not limited to injuries to her foot, ankle, and leg, which have prompted her to seek extensive medical treatment in efforts to alleviate her injuries.

52. As a result of the Defendant's negligence, the Plaintiff has incurred past medical expenses in the amount of at least $108,469.93 and will likely incur medical expenses in the future as a result of the subject incident.

53. Plaintiff has also experienced physical and emotional pain and suffering, loss of strength and mobility, permanent disability, scarring, and an adverse impact on the quality of her daily life as a direct result of the negligence of the Defendant which impact continues today and into the future.

54. Punitive damages are also appropriate in this case where Defendant has not only violated professional standards as they apply to sidewalks and parking lots, but has also violated its own internal policies, and the City of Griffin Municipal Code.

55. Defendant Walmart's conduct in failing to protect its invitees from the dangerous conditions caused Plaintiffs' damages was and is wanton and willful.

WHEREFORE, the Plaintiffs, Shelby and Tyler Young, pray for judgment against the Defendant as follows:

(a) That the Complaint for Damages be issued and served upon the Defendants;

(b) That the Defendants appear and answer the Complaint for Damages;

(c) That a Judgment be entered in favor of the Plaintiff and against the Defendant for her injuries, physical and emotional pain and suffering, impairment, permanent disability, scarring, and diminished quality of life, in an amount to be determined by an enlightened conscience of an impartial jury;

(d) That the Plaintiff be awarded payment of her past, present, and future medical expenses;

(e) That the Plaintiffs be awarded punitive damages for wanton and willful misconduct;

(f) That there be a trial by jury; and

(g) That this Court enter such other and further relief as it may deem just and proper.

Dated this 4th day of October 2021.

/s/Jacob A. Weldon
JACOB A. WELDON, Bar No. 966930
/s/ Jonathan P. Sexton
JONATHAN P. SEXTON, Bar No. 636486

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General Civil and Domestic Relations Case Filing Information Form

☐ Superior or ☒ State Court of SPALDING County

For Clerk Use Only

Date Filed 10/4/2021 (MM-DD-YYYY) Case Number 21SV-301

Plaintiff(s)	Defendant(s)
YOUNG, SHELBY (Last, First, Middle I., Suffix, Prefix)	WAL-MART STORES EAST, LP (Last, First, Middle I., Suffix, Prefix)
YOUNG, TYLER (Last, First, Middle I., Suffix, Prefix)	OWEN, THOMAS S. (Last, First, Middle I., Suffix, Prefix)
Last, First, Middle I., Suffix, Prefix	Last, First, Middle I., Suffix, Prefix
Last, First, Middle I., Suffix, Prefix	Last, First, Middle I., Suffix, Prefix

Plaintiff's Attorney JACOB WELDON State Bar Number 966930 Self-Represented ☐

Check one case type and one sub-type in the same box (if a sub-type applies):

General Civil Cases

- ☐ Automobile Tort
- ☐ Civil Appeal
- ☐ Contempt/Modification/Other Post-Judgment
- ☐ Contract
- ☐ Garnishment
- ☒ General Tort
- ☐ Habeas Corpus
- ☐ Injunction/Mandamus/Other Writ
- ☐ Landlord/Tenant
- ☐ Medical Malpractice Tort
- ☐ Product Liability Tort
- ☐ Real Property
- ☐ Restraining Petition
- ☐ Other General Civil

Domestic Relations Cases

- ☐ Adoption
- ☐ Contempt
  - ☐ Non-payment of child support, medical support, or alimony
- ☐ Dissolution/Divorce/Separate Maintenance/Alimony
- ☐ Family Violence Petition
- ☐ Modification
  - ☐ Custody/Parenting Time/Visitation
- ☐ Paternity/Legitimation
- ☐ Support – IV-D
- ☐ Support – Private (non-IV-D)
- ☐ Other Domestic Relations

☐ Check if the action is related to another action pending or previously pending in this court involving some or all of the same: parties, subject matter, or factual issues. If so, provide a case number for each.

__________ Case Number __________ Case Number

☒ I hereby certify that the documents in this filing, including attachments and exhibits, satisfy the requirements for redaction of personal or confidential information in OCGA § 9-11-7.1.

☐ Is a foreign language or sign-language interpreter needed in this case? If so, provide the language(s) required.

__________ Language(s) Required

☐ Do you or your client need any disability accommodations? If so, please describe the accommodation request.